

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE AUDUBON SOCIETY, et al.,

Plaintiffs,

v.

DOUG SUTHERLAND, et al.,

Defendants.

No. C06-1608MJP

ORDER REGARDING STATE
DEFENDANTS' DAUBERT
MOTION IN LIMINE TO EXCLUDE
EXPERT OPINIONS BASED ON
THE "PRECAUTIONARY
PRINCIPLE"

This matter comes before the Court on State Defendants' motion *in limine* to exclude expert opinions based on the "precautionary principle." (Dkt. No. 164.) Citing Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S 579 (1993), State Defendants seek to exclude testimony from Audubon's expert witnesses Gordon Orians, James Patrick Ward, Paula Sweeden, and Elizabeth Glen because, Defendants argue, these opinions are "merely statements of what 'might' happen to northern spotted owls as opposed to what is reasonably certain to happen to them." Plaintiffs oppose the motion. (Dkt. No. 187.)

The motion is DENIED without prejudice. If Defendants wish to challenge the admissibility of Plaintiffs' experts' testimony, they may do so during the preliminary injunction hearing.

The clerk is instructed to distribute copies of this order to all counsel of record.

Dated: June 13th, 2007.



Marsha J. Pechman
United States District Judge